

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re OPTIONABLE SECURITIES LITIGATION

07 Civ. 3753 (LAK)

This Document Applies to: All Cases  
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**ORDER**

LEWIS A. KAPLAN, *District Judge*.

On October 16, 2007, the Court directed KLD to "submit evidence establishing that (a) it had unconstrained investment discretion over the accounts to which the Optionable shares were allocated at the time the shares were purchased and allocated, and (b) it is the attorney-in-fact of each account owner for the purpose of bringing and maintaining this action."

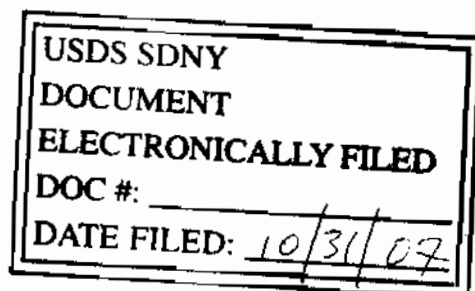
KLD responded with a declaration of its owner, Kerwin Doughton. The declaration states first that KLD acted as a single investor in buying the Optionable shares, that it has discretionary authority with respect to client accounts, and that it thereafter allocated the Optionable shares to client accounts consistent with each client's objectives. It then goes on to say that KLD "individually notified each of its clients of the pending securities class action . . . and received its clients' consent for KLD . . . to file a motion for lead plaintiff in the action."

This falls rather short of what the Court had in mind, at least in some respects, although this might have been avoided by more explicit directions. Unless KLD withdraws its motion for appointment as Lead Plaintiff, it shall submit, on or before November 8, 2007, the following:

1. An affidavit or declaration setting forth the Optionable shares purchased by KLD, the accounts to which those shares were allocated, and the number of shares allocated to each.
2. Documentary proof that KLD had the discretionary authority to make those purchases on behalf of the relevant client accounts and to allocate the shares among them.
3. With respect to each relevant account, a power of attorney or other documentary proof demonstrating KLD's authority to maintain this action on behalf of the beneficial owner(s) and to seek lead plaintiff status.

SO ORDERED.

Dated: October 31, 2007



A handwritten signature in black ink, appearing to read "Lewis A. Kaplan".

Lewis A. Kaplan  
United States District Judge